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Paper No. 7

In re Application of  
John Y. Chen  
Application No. 08/909,487  
Filed: August 12, 1997  
Attorney Docket No. 028

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: DECISION ON PETITION  
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This is a decision on the petition, filed March 22, 1999, requesting withdrawal of the examiner's holding that this application stands abandoned for failure to file a reply to the Office letter dated November 20, 1998.

The petition is GRANTED.

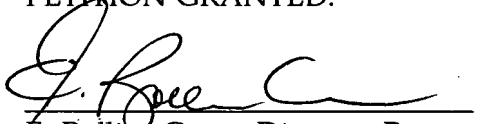
Petitioner alleges that the Office letter in question was not in fact received. This allegation is supported in a manner which satisfies the requirements for a showing of non-receipt of Office correspondence. See MPEP 711.03(c).

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status.

A copy of the Office letter dated November 20, 1998 is attached to this decision so that counsel's file will be complete. However, it is noted that the requirement set forth in that communication appears to be at odds with the practice set forth in MPEP 809.02(d). As the Office letter in question indicates that three species are disclosed, but there are no claims limited to a single species, there was no basis for requiring an election of species. Therefore, the reply filed on October 15, 1998 was a complete response to the Office letter dated September 14, 1998, and the Office letter dated November 20, 1998 is vacated.

The application is being forwarded to the examiner for action on the reply filed on October 15, 1998.

PETITION GRANTED.

  
E. Rollins-Cross, Director, Patent  
Examining Groups 3710 and 3720

Attachment

JOHN CHEN  
APPLIED ELASTOMERICS, INC.  
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